



January 23, 2018

VIA ELECTRONIC MAIL

Regional Freedom of Information Officer
U.S. EPA, Region 6
1445 Ross Avenue (6MD-OE)
Dallas, TX 75202-2733

RE: Freedom of Information Act Request Regarding Communications Regarding U.S. Environmental Protection Agency's Approval and Promulgation of Implementation Plans; Louisiana; Regional Haze State Implementation Plan, 82 Fed. Reg. 60,520 (Dec. 21, 2017) [EPA Docket Nos. EPA-R06-OAR-2016-0520; EPA-R06-OAR2017-0129]

Dear Regional FOIA Officer:

This is a request for information on behalf of Sierra Club, National Parks Conservation Association, and Earthjustice (collectively, "Conservation Organizations") pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the Environmental Protection Agency's ("EPA") FOIA regulations, 40 C.F.R. § 2.107.

The Conservation Organizations also request a fee waiver for this request under 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107.

I. Records Requested

The Conservation Organizations request the following records created, stored, or received between **June 20, 2017**, and the date of your search:

- (1) All records reflecting communications between EPA (including any communications that include EPA employees as recipients) and any of the following entities concerning EPA's plans or any options for approving Louisiana's regional haze state implementation plan for Entergy Louisiana's R.S. Nelson facility:

- State of Louisiana;
 - Louisiana Department of Environmental Quality;
 - Office of the Attorney General of Louisiana;
 - Entergy Louisiana and/or any other entity or individual representing Entergy or any Entergy affiliate;
- (2) All records created, stored, or received and related to EPA's November 17, 2017 conference call with Entergy, and any records or communications received from Entergy related to, or in response to, that call. *See* EPA Docket No. EPA-R06-OAR-2017-0129-0055, *available at* regulations.gov.

For purposes of this request, the term "records" means information of any kind, including, but not limited to, documents (handwritten, typed, electronic or otherwise produced, reproduced, or stored), letters, e-mails, facsimiles, memoranda, correspondence, notes, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. As used herein, "and" and "or" shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these requests any information which might be deemed outside their scope by any other construction.

Further, for purposes of this request, the term "records" includes any personal email messages, telephone voice mails or text messages, and internet "chat" or social media messages, to the full extent that any such messages fall within the definition of "agency records" subject to FOIA, 5 U.S.C. § 552.

We remind you that FOIA requires that you respond within 20 working days of your receipt of this request, *see* 5 U.S.C. § 552(a)(6)(A)(i), and that that response must "at least indicate within the relevant time period the scope of the documents [you] will produce and the exemptions[, if any, you] will claim with respect to any withheld documents." *Citizens for Responsibility and Ethics in Washington v. F.E.C.*, 711 F.3d 180, 182-83 (D.C. Cir. 2013).

We ask that you disclose this information as it becomes available to you without waiting until all of the communications and records have been assembled for the time period requested. The Conservation Organizations request electronic copies of the records whenever possible.

II. Claims of Exemption from Disclosure

If EPA regards any documents as exempt from required disclosure under the Freedom of Information Act, we request that you identify each allegedly exempt record in writing, provide a brief description of that record, and explain the agency's justification for withholding it. We request that this explanation take the form of a *Vaughn* index, as described in *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), and other related cases. If a document contains both exempt and non-exempt information, please provide those portions of the document that are not exempted from disclosure. Finally, if a document does not exist, please indicate that in your written response.

III. Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107, the Conservation Organizations request that EPA waive all fees associated with responding to this request because the groups seek this information in the public interest and will not benefit commercially from this request.

FOIA provides that fees shall be reduced “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”¹ EPA’s FOIA regulations contain an identical requirement.²

The Conservation Organizations are non-profit organizations with no commercial, trade, or profit interests in the requested information. They seek to use this information solely to inform the public and to support advocacy efforts around protecting human health and the environment through effective implementation of the Clean Air Act. Thus, there is no relevant commercial interest here, and the request is entirely in the public interest.

If EPA does not believe that the above information is sufficient to justify a fee waiver, please contact us for further documentation before deciding upon the waiver request.

Thank you for your assistance processing this request. Please contact me at the email or telephone number below if you have any questions or concerns about this request for information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joshua Smith', with a long horizontal line extending to the right.

Joshua Smith
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¹ 5 U.S.C. § 552(a)(4)(A)(iii).

² 40 C.F.R. § 2.107.